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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,606	09/26/2001	John English	ENG-01	7831

23508 7590 07/21/2003

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EXAMINER
NGUYEN, KIEN T

ART UNIT	PAPER NUMBER
3712	7

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/682,606	Applicant(s) English, John
	Examiner Derris H. Banks	Art Unit 3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Feb 3, 2003* .

2a) ☐ This action is **FINAL.** 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under ***Ex parte Quayle***, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) *8, 11-14, and 16-18* is/are allowed.

6) ☒ Claim(s) *1-4, 7, 9, 10, 15, and 19-24* is/are rejected.

7) ☒ Claim(s) *5 and 6* is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 2-4, 9, 10, 15, and 19-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to Claims 2, 3, 9, 10, 19, and 20, the use of the term "trademark" renders the claims indefinite. The metes and bounds of the claimed subject matter cannot be determined, within the scope of the claimed invention. In other words, the term trademark encompasses logos, words, and symbols. Accordingly, the use of such a term renders the claimed subject matter indefinite.

Claim 15 is indefinite because it failed to recite any specific step of the method of conducting a contest as set forth in claim 8.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Sullens, et al.

Claim 1 is rejected under 35 U.S.C. 103(a) as unpatentable over the well known prior art acknowledged by applicant in the second paragraph on page 1 of the specification in view of Sullens, et al. Applicant acknowledges that the typical boxing ring configuration comprises a ring with opposing corners and that the boxer retires to his corner between rounds, sits on a seat, and that the ring floor is subjected to various liquids administered to or exuding from the boxer. The acknowledged prior art recognizes that excessive fluids are mopped up when present. The prior art lacks the claimed absorbent mat under the boxer's seat to absorb the various fluids that would otherwise contaminate the floor of the boxing ring and require mopping up for safety.

The Sullens, et al. patent discloses providing an absorbent mat under an individual's chair to absorb various materials that may otherwise contaminate the floor, particularly in a restaurant. Use of this mat is in lieu of the familiar task of mopping up the floor beneath the high chair. A question arises as to whether the Sullens, et al. patent is analogous art since it is disclosed in relation to absorbing material beneath the chair of a child rather than that of a boxer in a ring. The accepted legal test for analogous art has two steps. First, we determine whether the reference is in the field of the applicant's endeavor. If not, we then ask whether the reference is reasonably pertinent to the particular problem with which the inventor was concerned. See MPEP 2141.01(a).

In this case, it seems reasonably clear that the Sullens, et al. patent is not concerned with boxing or with absorbing material administered to or exuding from a boxer seated in the corner of a boxing ring. Therefore, Sullens, et al. is not reasonably within the field of endeavor of the inventor. The first question must be answered in the negative. Thus we move to the second question. Here, it is logical to conclude that the Sullens, et al. patent is reasonably pertinent to the particular problem with which the inventor was concerned since it clearly relates to the problem of preventing the floor from being contaminated by various materials administered to or emanating from a person on a seat. Accordingly, it is concluded that Sullens, et al. is, under the legal test, analogous art.

Because Sullens, et al. is analogous art that suggests a solution to the problem of contamination of the floor beneath a seat with various materials, one skilled in this art would have considered the Sullens, et al. solution in connection with this obvious problem notwithstanding the fact that Sullens, et al. is not directly concerned with boxing. Sullens, et al. would have suggested to one skilled in the art that an absorbent mat be placed under the boxer's seat to catch and absorb the various liquids so that the floor beneath would not be contaminated. Accordingly, it would have been obvious for one having ordinary skill in the art at the time the invention was made to have provided an absorbent mat beneath the well known boxer seat in the prior art for the desirable and beneficial purpose of absorbing excess fluids administered to the boxer, as well as exudates from the boxer, and for keeping the underlying floor safe and reasonably free from contaminants.

With regards to claims 2 and 3, AAPA in view of Sullens, et al. discloses the claimed invention except for the specific arrangement and/or content of indicia (printed matter) set forth in the claim(s). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a trademark symbol on a surface of the mat, since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. In re Gulack, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter (i.e., trademark) placed on the substrate (i.e., mat) may render the device more convenient by providing an individual with a specific type of personalized boxing mat does not alter the functional relationship. In other words, the addition of the trademark to the mat surface does not change the purpose or inherent structure of the mat. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter e.g., trademark symbol and the substrate e.g., mat which is required for patentability.

Allowable Subject Matter

4. Claims 4, 9, 10, 15, and 20-24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

5. Claim 19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

6. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 8, 11-14, and 16-18 are allowable over prior art of record.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (703) 308-2493. The examiner can normally be reached between the hours of 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on (703) 308-1745. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final Communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Derris H. Banks
Supervisory Patent Examiner
Art Unit 3712, Technology Center 3700

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SUPERVISORY PATENT EXAMINER
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